

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

In re: : CASE NO. 15-53700-WLH
:
BRENDA K. ROBERTSON, : CHAPTER 7
:
Debtor. :
:

TRUSTEE’S MOTION FOR AUTHORITY TO VOTE MEMBERSHIP INTEREST OF GILBERT VENTURES, LLC TO: (1) SELL SOLE ASSET OF LIMITED LIABILITY COMPANY; (2) DISTRIBUTE THE ASSETS OF THE LIMITED LIABILITY COMPANY; AND (3) WIND-UP THE FINANCIAL AFFAIRS OF THE LIMITED LIABILITY COMPANY

COMES NOW S. Gregory Hays, Chapter 7 Trustee (“**Trustee**”) for Brenda K. Robertson (“**Debtor**”), and hereby files *Trustee’s Motion for Authority to Vote Membership Interest of Gilbert Ventures, LLC to: (1) Sell Sole Asset of Limited Liability Company; (2) Distribute the Assets of the Limited Liability Company; and (3) Wind-up the Financial Affairs of the Limited Liability Company* (the “**Motion**”). In support of the Motion, Trustee respectfully shows as follows:

Jurisdiction and Venue

1. The Court has jurisdiction over this Motion pursuant to 28 U.S.C. §§ 157 and 1334. Venue is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2).

Background

2. On February 27, 2015 (the “**Petition Date**”), Brenda K. Robertson (the “**Debtor**”) filed a voluntary petition for relief under Chapter 7 of Title 11 of the United States Code, 11 U.S.C. §§ 101 et seq. (the “**Bankruptcy Code**”) in the United States Bankruptcy Court for the

Northern District of Georgia, Atlanta Division (“**Bankruptcy Court**”), initiating Chapter 7 Case No. 15-53700-WLH (the “**Bankruptcy Case**”). The Trustee was subsequently appointed the duly acting Chapter 7 trustee in the Bankruptcy Case and became the permanent Trustee at the conclusion of the Meeting of Creditors.

3. At the commencement of the Bankruptcy Case, all legal and equitable rights of Debtor became property of the bankruptcy estate (the “**Bankruptcy Estate**”), and Trustee was and continues to be the sole representative of the Bankruptcy Estate.

4. On her *Schedule B – Personal Property – Amended* [Doc. No. 249] (“**Schedule B**”), Debtor scheduled her ownership interests in several businesses, including Gilbert Ventures, LLC (“**Gilbert Ventures**”) with \$0.00 values.

5. Trustee has determined that Gilbert Ventures and Purple Martin Group, LLC, an entity owned 100% by Debtor’s brother, each own a one-half undivided interest in certain unimproved real property located at the corner of Anvil Block and Bouldercrest Road, Ellenwood, Georgia more particularly described as Lots 1-7 of Land Lot 215 of the 12th District in Clayton County, Georgia (the “**Unimproved Real Property**”).¹ A true and correct copy of the real property description for the Unimproved Real Property is attached hereto and incorporated herein by reference as Exhibit “A.”

6. As of the Petition Date, Debtor held 100% of the membership interests in and to Gilbert Ventures, a State of Georgia limited liability company.

¹ In this regard, Trustee received two conflicting title reports. One indicated that Gilbert Ventures owned 100% of Lots 1, 2, 3, and 4 and that Purple Martin Group, LLC owned 100% of Lots 5, 6, and 7. The other title report reflected that each entity owned 50% of Lots 1-7. Following a third opinion, Trustee believes that the latter title report accurately reflects Gilbert Ventures’ ownership interest in Lots 1-7 (that is, a 50% interest in each Lot).

7. Upon information and belief, the State of Georgia Secretary of State administratively dissolved Gilbert Ventures on September 7, 2018.

8. Trustee's investigation, including a Rule 2004 examination of Debtor, indicates that Gilbert Ventures was a holding company that has no debts other than possible ad valorem tax debts associated with the above-mentioned property. In addition, the Unimproved Real Property is the only asset of Gilbert Ventures.

9. Trustee has received an offer from Purple Martin Group, LLC to purchase the interest of Gilbert Ventures in the Unimproved Real Property for a purchase price of \$20,000.00. Trustee, subject to Court approval, would like to sell the interest of Gilbert Ventures in Unimproved Real Property to Purple Martin Group, LLC.

10. To accomplish the sale of the Unimproved Real Property, Trustee proposes to vote the 100% membership interest of the Bankruptcy Estate in Gilbert Ventures to authorize a resolution substantially in the form of the resolution (the "**Resolution**") attached to this Motion as Exhibit "B", to: (a) sell the Unimproved Real Property at a private sale (the "**Sale**"); (b) pay all debts of Gilbert Ventures (none anticipated); (c) distribute the remaining assets of Gilbert Ventures, including the net proceeds from the Sale, to the Bankruptcy Estate as the sole member of Gilbert Ventures; and (d) wind-up the financial affairs of Gilbert Ventures.

11. By this Motion, Trustee seeks authority to vote the membership interest of the Bankruptcy Estate in and to Gilbert Ventures to authorize the Resolution and proceed to realize for the benefit of the Bankruptcy Estate the net proceeds of the Sale.

WHEREFORE, Trustee respectfully requests that the Court enter an order:

(A) Granting the relief sought in this Motion;

- (B) Authorizing Trustee to vote the membership interest of the Bankruptcy Estate in and to Gilbert Ventures authorizing the Resolution attached as Exhibit “B”;
- (C) Authorizing Trustee to receive the net proceeds due to the Bankruptcy Estate from the Sale of the Unimproved Real Property; and
- (D) Granting such other and further relief as the Court deems just or appropriate.

Respectfully submitted this 1st day of October, 2018.

ARNALL GOLDEN GREGORY LLP

By: /s/ Michael J. Bargar

Michael J. Bargar

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Attorneys for the Chapter 7 Trustee

EXHIBIT "A"

All that tract or parcel of land lying and being In Land Lot 215 of the 12th District, Clayton County, Georgia, as shown and delineated as Lots 1-7 on a plat of survey prepared for *Preliminary Subdivision Plan Unit Two, Boulder Estates' by David Charles Jones, Registered Land Surveyor, dated 9/14/2001, and being more particularly described as follows:

Lots 1, 2, 3 & 4:

Begin at an iron pin located at the intersection of the easterly right-of-way line of Bouldercrest Road (80' r/w) with the southwesterly right-of-way line of Anvil Block Road (80' r/w); thence South 49 degrees 37 minutes 48 seconds East, 110.00 feet to a point; thence South 19 degrees 30 minutes 36 seconds East, 108.00 feet to a point; thence South 48 degrees 25 minutes 14 seconds East, 119.64 feet to a point located on the easterly land lot line of Land Lot 215; thence southerly along said land lot line South 00 degrees 02 minutes 50 seconds West, 296.69 feet to a point; thence North 57 degrees 50 minutes 28 seconds East, 342.32 feet to a point; thence South 87 degrees 13 minutes 48 seconds West, 45.17 feet to a point located on the easterly right-of-way line of Bouldercrest Road; thence northerly along said easterly right-of-way line of Bouldercrest Road. North 13 degrees 06 minutes 49 seconds East, 100.00 feet to a point; thence North 13 degrees 06 minutes 50 seconds East, 45.96 feet to a point; thence North 13 degrees 03 minutes 32 seconds East, 69.78 feet to a point; thence North 13 degrees 37 Minutes 15 seconds East, 131.00 feet to the Point of Beginning.

Lots 5, 6 & 7:

Begin at an iron pin located at the intersection of the easterly right-of-way line of Bouldercrest Road with the northeasterly right-of-way line of Anvil Block Road; thence northerly along said easterly right-of-way line of Bouldercrest Road and following the curvature thereof. 147.76 feet to a point; thence North 80 degrees 02 minutes 53 seconds East, 236.96 feet to a point located on the eastern land lot line of Land Lot 215; thence South 00 degrees 45 minutes 55 seconds West, 387.48 feet to a point located on the northeasterly right-of-way line of Anvil Block Road; thence North 48 degrees 51 minutes 02 seconds West, 44.14 feet to a point; thence North 49 degrees 30 minutes 36 seconds West, 108.92 feet to a point; thence North 50 degrees 42 minutes 37 seconds West, 102.12 feet to a point; thence North 50 degrees 50 minutes 34 seconds West, 57.07 feet to the Point of Beginning.

EXHIBIT “B”

Sale of Real Property, Distribution, and Wind-Up Resolution

Resolution of Sole Member of Gilbert Ventures, LLC

WHEREAS, S. Gregory Hays, in his capacity as Chapter 7 Trustee (“**Trustee**”) for the bankruptcy estate (the “**Bankruptcy Estate**”) of Brenda K. Robertson (“**Debtor**”), is the sole member of Gilbert Ventures, LLC (“**Gilbert Ventures**”), a State of Georgia limited liability company (the “**Member**”);

WHEREAS, Debtor filed a voluntary petition for relief under Chapter 7 of Title 11 of the United States Code on February 27, 2015 in the United States Bankruptcy Court, Northern District of Georgia, Atlanta Division (the “**Bankruptcy Court**”), and Debtor’s bankruptcy case remains is pending in the Bankruptcy Court;

WHEREAS, Trustee seeks to sell for the benefit of the Bankruptcy Estate all property and interests of Debtor, including the assets of Gilbert Ventures, which consists of certain unimproved real property located at the corner of Anvil Block and Bouldercrest Road, Ellenwood, Georgia more particularly described as Lots 1-7 of Land Lot 215 of the 12th District in Clayton County, Georgia (the “**Unimproved Real Property**”) and more particularly described on Exhibit “1” to this resolution;

WHEREAS, the Member has agreed to sell (the “**Sale**”) the Unimproved Real Property, subject however, to approval of the Bankruptcy Court;

WHEREAS, subject to the approval of the Bankruptcy Court, upon the completion of the Sale of the Property and receipt by Gilbert Ventures of payment from the purchaser of the Unimproved Real Property, the Member has agreed to: (1) pay all creditors and lien holders, if any, of Gilbert Ventures in full; (2) distribute all remaining assets of Gilbert Ventures to the Member (the “**Distribution**”); and (3) wind-up the financial affairs of Gilbert Ventures.

NOW THEREFORE, BE IT RESOLVED THAT:

1. The Member is hereby directed and authorized to consummate the Sale of the Unimproved Real Property;
2. The action of the Member of Gilbert Ventures approving the Sale of the Unimproved Real Property are hereby adopted, ratified, and approved by the Member of Gilbert Ventures in all respects;
3. Upon the close of the Sale of the Unimproved Real Property and the receipt by Gilbert Ventures of payment from the purchaser of the Unimproved Real

Property, all creditors and lien holders of Gilbert Ventures shall be paid in full, all remaining assets of Gilbert Ventures shall be distributed to the Member, and the Member shall wind-up the financial affairs of Gilbert Ventures, in accordance with applicable law;

4. This Resolution shall supersede and abrogate any other controlling documents previously approved by Gilbert Ventures, any manager of Gilbert Ventures, or any member of Gilbert Ventures; and
5. Gilbert Ventures and the Member are authorized to take all steps necessary to: (a) consummate the sale of the Unimproved Real Property, including the hiring of a real estate agent to ensure that the Unimproved Real Property is adequately exposed to the market; (b) pay all debts of Gilbert Ventures, none anticipated; (c) distribute the assets of Gilbert Ventures to the Member; and (d) wind-up the financial affairs of Gilbert Ventures, in accordance with applicable law.

Adopted _____, 2018, at a Special Meeting of the Member upon motion duly made, seconded, and approved by a majority vote of the membership of Gilbert Ventures.

CHAPTER 7 TRUSTEE

Witness: _____

By: _____
S. Gregory Hays, as and only as Chapter 7
Trustee for the Bankruptcy Estate of Brenda K.
Robertson (Case No. 15-53700-WLH), Sole
Member

CERTIFICATE OF SERVICE

The undersigned certifies that on the date set forth below, I caused to be served the foregoing *Trustee's Motion for Authority to Vote Membership Interest of Gilbert Ventures, LLC to: (1) Sell Sole Asset of Limited Liability Company; (2) Distribute the Assets of the Limited Liability Company; and (3) Wind-up the Financial Affairs of the Limited Liability Company* by first class U.S. mail, postage prepaid, upon the entities identified below at the addresses stated:

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362 Richard B. Russell Federal Building
75 Ted Turner Drive, SW
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W. Earl Edmondson, Mgr.
Purple Martin Group, LLC
4232 Hidden Lakes Drive
Port Orange, FL 32129

Albert G. Bantley
Brochstein & Bantley, P.C.
827 Fairways Court, Suite 100
Stockbridge, GA 30281

This 1st day of October, 2018.

/s/ Michael J. Bargar
Michael J. Bargar
Georgia Bar No. 645709